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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,953	01/12/2002	Joe W. Cacka	5882.02	2740

20686 7590 10/23/2002

DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER

TILL, TERRENCE R

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 10/23/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/D45,953

Applicant(s)

CACKA ET AL.

Examiner

Terrence R. Till

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6-9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Reference character "25" is not found in the specification. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Double Patenting*

2. Applicant is advised that should claims 7 and 8 are be found allowable, claims 13 and 14 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

3. Claim 13 depends on claim 9 that depends on claim 8 that depends on claim 7. Claim 14 depends on claim 9 that depends on claim 8.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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6. Claim 14, which depends upon claim 12, recites the vibratory means are positioned in the brush shaft. Claim 12 recites the vibratory means are positioned in the brush head. This is a clear conflict in claim limitations.

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5, 6, 10, 12, 15 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese patent to Iguchi (cited in IDS).

9. The patent to Iguchi discloses (figures 7-11) a handle 66, a brush head 51 including bristles 3, connected with the handle, a vibratory means 31-33 causing the bristles to vibrate and a vibration isolation means 65, consisting of a vibration dampening material, reducing the vibrations from the vibratory means to the handle. The vibration isolation means being positioned between the vibratory means and the handle. As can be seen in figure 8, the vibratory means are positioned in the brush head.

10. Claims 1-7, 10-13, 15 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Eliachar et al (cited in IDS).

11. The patent to Eliachar et al. discloses a handle 10, a brush head 12 including bristles 20, connected with the handle, a vibratory means 16 causing the bristles to vibrate and a vibration isolation means 40, consisting of a vibration dampening material, reducing the vibrations from the vibratory means to the handle. The brush head further including a brush shaft 18 and the

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vibratory means comprising an eccentric motor 24,30. The vibration isolation means being positioned between the vibratory means and brush shaft and the handle.

12. Claims 1-4, 7-11, 13-19, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hahn '681 (cited in IDS).

13. The patent to Hahn discloses a handle 1, a brush head 2 including bristles 21, connected with the handle, a vibratory means 4,5 causing the bristles to vibrate and a vibration isolation means 8, consisting of a vibration dampening material, reducing the vibrations from the vibratory means to the handle. The brush head further including a brush shaft 3 and the vibratory means comprising an eccentric motor 4,5. The eccentric motor being positioned in the brush shaft. The vibration isolation means being positioned between the vibratory means and the handle.

*Allowable Subject Matter*

14. Claim 23 is allowed.

15. The following is an examiner's statement of reasons for allowance: In claim 23, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a vibration damping structure comprising first and second o-rings.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

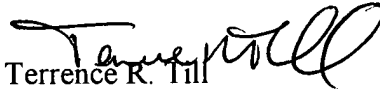
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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (703) 308-1592. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Terrence R. Till  
Primary Examiner  
Art Unit 1744

trt  
October 22, 2002